

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 12 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-

and

Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

SARABHAI CHEMICALS PVT.LTD.

Appearance:

MR B.B.NAYAK FOR MR MANISH R BHATT for Applicant.

MR R.K.PATEL WITH MR. B.D.KARIA FOR MR KC PATEL
for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 28/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 At the instance of the Revenue, the Income-tax Appellate Tribunal, Ahmedabad Bench 'C' has referred to this Court the following question of law for its opinion under the provisions of section 256(1) of the Income Tax Act, 1961.

"Whether the Appellate Tribunal is right
in law in deleting an amount of Rs.2.80

lakhs in respect of taxability of goodwill ?"

2 Learned Advocate Shri B.B.Nayak has appeared for the Revenue and learned Advocate Mr.R.K.Patel has appeared for the assessee.

3 The learned Advocates have drawn our attention to the judgment delivered by this Court in I.T.R.No.243 of 1985 and I.T.R No.243A/85 dated 8/3/2001. It is pertinent to note that while deciding the question of law involved in the case of the assessee, the Tribunal had relied upon the order passed in the case of Commissioner of Income Tax Vs. Shahibaug Enterprenuers Pvt.Ltd. In the case of C.I.T. Vs. Shahibaug Enterprenuers Pvt.Ltd. the question was referred to this Court at the instance of the Revenue in I.T.R.No.243/85 and I.T.R.No.243A/85. In view of the law laid down by this Court in the casse of C.I.T. Vs. Shahibaug Enterprenuers Pvt.Ltd., in our opinion, the Tribunal was right in law in deleting the amount of Rs.2.80 lakhs in respect of the taxibility of the goodwill. Thus, we answer the question in affirmative i.e. in favour of the assessee and against the Revenue.

4. The Reference is thus disposed of accordingly with no order as to costs.

Sd/- Sd/-
(A.R.Dave, J) (D.A.Mehta, J)

m.m.bhatt